

SENATE BILL No. 573

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-23-15.

Synopsis: Binding arbitration of judicial mandates. Provides that a judicial mandate must be submitted to binding arbitration upon the request of the court or the mandated party. Specifies that a judicial mandate submitted to binding arbitration must be heard by a panel of three arbitrators: one selected by the court, one selected by the mandated party, and the third selected by the first two arbitrators. Provides that the special judge shall set the compensation of the arbitrators and that the costs of arbitration are to be equally divided between the judge and the mandated party. Specifies that the arbitration hearing is open to the public and that documents provided in the scope of the arbitration are public documents unless privileged or declared confidential by another law. Provides that the arbitration panel shall reach a determination not later than 20 days after the date of the hearing, specifies that the determination of the arbitration panel is dispositive as to all issues, and requires the special judge to enter a judgment on the determination. Provides that the judgment of the special judge is effective without review by the supreme court.

Effective: July 1, 2009.

Boots

January 20, 2009, read first time and referred to Committee on Judiciary.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 573

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-23-15 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]:

4 **Chapter 15. Binding Arbitration and Judicial Mandates**

5 **Sec. 1. Notwithstanding Indiana Trial Rule 60.5, this chapter**
6 **applies to an order for mandate of funds whenever the court or a**
7 **mandated party requests binding arbitration in accordance with**
8 **this chapter.**

9 **Sec. 2. As used in this chapter, "mandated party" means a**
10 **person described in section 3 of this chapter who is the subject of**
11 **an order for mandate of funds.**

12 **Sec. 3. As used in this chapter, "order for mandate of funds"**
13 **means an order issued by a court to require:**

- 14 (1) a municipality;
15 (2) a political subdivision of the state; or
16 (3) an officer of a municipality or a political subdivision of the
17 state;

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1 to appropriate or to pay unappropriated funds for the operation of
2 the court or court related functions.

3 Sec. 4. As used in this chapter, "special judge" means a special
4 judge appointed by the supreme court under Indiana Trial Rule
5 60.5(B) to try an order for mandate of funds.

6 Sec. 5. (a) An order for mandate of funds shall be submitted to
7 binding arbitration if the court or the mandated party requests
8 binding arbitration in accordance with this section.

9 (b) A court may request binding arbitration by including a
10 request for binding arbitration in its order for mandate of funds.

11 (c) A mandated party may request binding arbitration by filing
12 a petition with the special judge not later than fifteen (15) days
13 after the mandated party receives notice of the appointment of a
14 special judge under Indiana Trial Rule 60.5(B).

15 (d) If a court or a mandated party requests binding arbitration
16 in accordance with this section, the special judge shall submit the
17 matter to binding arbitration. The special judge shall remain
18 available to rule and assist in any discovery or prearbitration
19 matters or motions.

20 Sec. 6. (a) An order for mandate of funds submitted to binding
21 arbitration shall be heard by a panel of three (3) arbitrators.

22 (b) The court shall select one (1) arbitrator from the listing of
23 lawyers engaged in the practice of law in Indiana who are willing
24 to serve as arbitrators. The court may select an arbitrator from a
25 listing maintained by any court.

26 (c) The mandated party shall select one (1) arbitrator from the
27 listing of lawyers engaged in the practice of law in Indiana who are
28 willing to serve as arbitrators. The mandated party may select an
29 arbitrator from a listing maintained by any court.

30 (d) The two (2) arbitrators selected by the court and the
31 mandated party shall select a third arbitrator from the listing of
32 lawyers engaged in the practice of law in Indiana who are willing
33 to serve as arbitrators. The two (2) arbitrators may select an
34 arbitrator from a listing maintained by any court.

35 (e) After the three (3) arbitrators have been selected, the
36 arbitrators shall select from among themselves the chair of the
37 arbitration panel.

38 (f) The special judge shall set the rate of compensation for the
39 arbitrators. The costs of arbitration shall be equally divided
40 between the court and the mandated party and shall be paid not
41 later than thirty (30) days after the date the arbitration panel
42 reaches a decision.

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1 (g) Any person selected to serve as arbitrator may refuse to
2 serve.

3 Sec. 7. An arbitration hearing conducted under this chapter is
4 open to the public. Unless privileged or otherwise made
5 confidential by another law, all documents that are filed or
6 provided as part of the arbitration are public documents.
7 Arbitration conducted in accordance with this chapter is not a
8 settlement negotiation as governed by Indiana Evidence Rule 408.

9 Sec. 8. The arbitration shall be conducted in accordance with
10 Indiana Trial Rule 60.5, except to the extent that Indiana Trial
11 Rule 60.5 conflicts with this chapter.

12 Sec. 9. The determination of the arbitration panel shall be
13 decided by majority vote. Not later than twenty (20) days after the
14 date of the arbitration hearing, the chair of the arbitration panel
15 shall file a written determination of the arbitration proceedings
16 with the special judge and serve a copy on the court and the
17 mandated party. The determination of the arbitration panel is
18 dispositive as to all issues. The special judge shall enter judgment
19 on the determination of the arbitration panel. The judgment of the
20 special judge is effective without review by the supreme court.

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